

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 4840 of 2016**

1. Santosh Kumar S/o Shri Nageshwar Patel, Aged About 28 Years R/o Village Govindpur, District Surajpur, (Chhattisgarh)
2. Jeetram, S/o Shri Dilsai, Aged About 26 Years R/o Village Badwar, District Surajpur, (Chhattisgarh)
3. Dev Prakash, S/o Shri Shobhnath, Aged About 27 Years R/o Village Narola, District Surajpur, (Chhattisgarh)
4. Basant Ram, S/o Shri Haras Lal, Aged About 25 Years R/o Village Batai, District Surajpur, (Chhattisgarh)
5. Vijay Kumar, S/o Shri Sahdev Singh, Aged About 26 Years R/o Village Kumda, District Surajpur, (Chhattisgarh)
6. Arjun Singh, S/o Shri Somaru, Aged About 26 Years R/o Village Khadgawakala, District Surajpur, (Chhattisgarh)
7. Ajay Kumar, S/o Shri Mishri Lal, Aged About 28 Years R/o Village Govindpur, District Surajpur, (Chhattisgarh)
8. Dalip Kumar, S/o Shri Sangal Sai, Aged About 27 Years R/o Village Mayapur- II, District Surajpur, (Chhattisgarh)
9. Shuklal, S/o Shri Ram Sunadar, Aged About 26 Years R/o Village Khadgawakala, (Jhingapara), District Surajpur, (Chhattisgarh)
10. Lochan Prasad Singh, S/o Shri Sahdev Singh, Aged About 27 Years R/o Village Shukhdevpur, District Surajpur, (Chhattisgarh)
11. Rupendra Kumar Singh, S/o Shri Premnath Singh, Aged About 28 Years R/o Village Ramkola, District Surajpur, (Chhattisgarh)
12. Amit Kumar, S/o Shobhram, Aged About 27 Years R/o Village Ramkola, District Surajpur, (Chhattisgarh)
13. Gunjaram, S/o Shri Babulal, Aged About 29 Years R/o Village Dubkapara (Kerta), District Surajpur, (Chhattisgarh)

---- Petitioners**Versus**

1. State Of Chhattisgarh Through- Secretary, Tribal Development Department, Mahanadi Bhawan, New Raipur, (Chhattisgarh)
2. Commissioner, (Tribal Development) District Surajpur, (Chhattisgarh)
3. Collector, (Tribal Development); District Surajpur, (Chhattisgarh)
4. Assistant Commissioner, (Tribal Development); District Surajpur, (Chhattisgarh)
5. Block Education Officer, Pratappur, District Surajpur, (Chhattisgarh)

---- Respondents

For Petitioner : Mr. Shashi Bhushan Tiwari, Advocate
 For State : Mr. S.P. Kale, Dy. Advocate General

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

19/09/2016

1. This petition has been filed by the Part-Time Sweepers working in various schools in district-Surajpur whose services have been discontinued in the year 2012.
2. At the outset, learned counsel for the respective petitioners submits that the large number of similarly situated Part-Time Sweepers were discontinued from service and they had filed petitions before this Court. All those petitions were disposed off by a common order dated 9.9.2015. It is submitted that the petitioners herein are identically situated as the petitioners in those petitions, because these petitioners were also Part-Time Sweepers appointed in various schools in the same district i.e. Surajpur and on similar consideration which weighed at the time of termination of petitioners in above referred petitions, these petitioners were also discontinued from service. Learned counsel for the respective petitioners submits that the Part-Time Sweepers are low rank of employees and very meagerly paid. Therefore, in these circumstances, these petitions may be finally disposed off with a direction to respondents to examine their individual cases and on parity, similar relief may be granted in cases of each of the petitioners.
3. Learned State counsel submits that though in one of the petitions i.e. WPC No.4266 of 2015, the return has been filed but in other cases, return has not been filed Therefore, at this stage, it cannot be said that the case of the petitioners are also identically situated, as it require verification on facts.
4. In a batch of petitions filed by Part-Time Sweepers working in various schools in the same district where the petitioners were also working as Part-Time Sweepers, this Court had an occasion to examine the correctness of decision taken by the authority towards enmass termination of Part-Time Sweepers. The reasons assigned for enmass termination, as reflected in the case of **Rameshwar**

Prasad Rajwar & Ors. Vs. State of Chhattisgarh & Ors. and batch of petitions, show that the appointments were illegally made by wrongly construing and interpreting direction of the State Govt. This Court after hearing the parties, held as below:

“7. Upon hearing learned counsel for the parties, it would appear that even if the respective principals/head masters were not informed or authorized to make appointment, the fact remains that the State Government had earlier issued communications to the effect that there is no restriction for appointing part time sweepers. It has not been disputed by the respondents that the petitioners were in fact appointed by the respective principals/head masters prior to issuance of the order (Annexure-P-1) and the order (Annexure-P-7). Once the appointments have been made, even on part time basis, mass cancellation of appointments, without there being any specific individual allegation of corruption or nepotism is not permissible. At the same time, if any part time sweeper is not attending duties as he belongs to some other village or is otherwise not efficient in his work, it always remains open for the concerned head of the department or the appointing authority to initiate action, as the petitioners have no right to hold the post, being only part time sweepers.”

5. Prima facie these petitioners also seem to be affected by the enmass termination while working in the same district and on similar consideration.
6. The petitioners, therefore, would also be entitled to similar benefits if their cases are similarly situated as the case of those petitioners who had earlier approached this Court and in whose favour, common order was passed on 9.9.2015.
7. In view of the above consideration, respondent -Assistant Commissioner Tribal Development, Surajpur, shall individually examine the case of each of the petitioners and verify facts. If these petitioners are similarly situated as the petitioners in earlier batch of petitions, which was decided on 9.9.2015, the benefits which have accrued to those petitioners and as ordered by this Court earlier in the case of **Rameshwar Prasad Rajwar (supra)** shall also be granted to these petitioners.

8. Considering that the petitioners are very low-paid employee, Assistant Commissioner, Tribal Development, Surajpur, shall complete the exercise within a maximum period of 90 days from the date of receipt of copy of this order.
9. If the petitioners' grievance are not redressed/fully redressed, they will be at liberty to revive their petitions.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Chandra